

In re Patent Application of:

**PERMAR, JOHN**

Serial No. 10/764,350

Filed: **JANUARY 23, 2004**

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**REMARKS**

The Examiner is thanked for the thorough examination of the present application. The Examiner is also thanked for conducting a telephone interview with the Applicant's Attorney on February 13, 2006.

The Applicant's Attorney has reviewed the interview summary dated February 23, 2006, and disagrees with the Examiner's summary of the record. During the interview, the Applicant's Attorney pointed out the several deficiencies of the prior art cited by the Examiner. At the conclusion of the interview, the Examiner requested that these arguments be submitted in writing. The summary of the record, however, notes that the Applicant has been asked to submit a request for reexamination. Applicant submits that this response summarizes the arguments made during the telephonic interview. More particularly, this response sets forth the several reasons why the prior art reference cited by the Examiner is deficient, and the reasons why the presently claimed invention is patentable. The Examiner contends that a single element recited in the claimed invention may be provided by three disjoint, separate and distinct elements disclosed in the prior art. As the arguments below will more clearly explain, the Examiner's proposed combination of disjoint pieces is not only improper, but it still fails to disclose the specific structural elements set forth in the claims.

The Applicant has amended the specification to correct some minor informalities. The Applicant has also amended independent Claim 20 to correct a minor informality.

The Applicant submits herewith a declaration pursuant to 35 U.S.C. §1.132 in support of the patentability of the present invention. The Applicant submits that the presently claimed invention defines over the prior art cited by the

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Examiner. More specifically, the Applicant submits that the prior art cited by the Examiner fails to disclose many of the elements of the presently claimed invention. The arguments supporting patentability are presented in greater detail below.

### I. The Invention

The invention, as recited, for example, in independent Claim 1, is directed to a folding knife. The folding knife comprises a handle, a blade rotatably connected to the handle, a lock bar pivotally connected to the handle, and a lock pin connected to the handle. More specifically, the blade is moveable between an opened position and a closed position. The blade has a first lock member receiving recess defined by a bottom wall and first and second opposing sidewalls extending upwardly therefrom. The blade also includes a second lock member receiving recess adjacent the first lock member receiving recess and defined by a bottom wall and a sidewall extending upwardly therefrom.

The lock bar comprises a first lock member defined by a bottom wall and first and second sidewalls extending upwardly therefrom. The lock bar also includes a second lock member adjacent the first lock member and defined by a bottom wall and a sidewall extending upwardly therefrom. The lock bar is moveable between an engaged position and a disengaged position so that a portion of the first sidewall of the first lock member contacts a portion of the first sidewall of the first lock member recess to define a contact point between the lock bar and the blade when the blade is in the opened position and the lock bar is in the engaged position.

The lock pin is connected to the handle adjacent the first and second lock members so that when the blade is in the open position and the lock bar is in the engaged position, the

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lock pin contacts the second sidewall of the first lock member and the bottom wall of the second lock member receiving recess.

Independent Claim 12 recites that the folding knife comprising a handle having a distal portion and a proximal portion. The proximal portion has a recess formed therein. The folding knife also comprises a blade rotatably connected to the distal portion of the handle. The blade is moveable between an opened position and a closed position and has at least one lock member receiving recess formed therein. The blade includes an upper edge and a lower sharpened edge.

The folding knife also includes a lock bar pivotally connected to a medial portion of the handle and moveable between an engaged position and a disengaged position. The lock bar comprises at least one lock member, a portion of which contacts a respective portion of the blade adjacent the at least one lock member receiving recess to thereby define a contact point between the lock member and the blade when the blade is in the opened position and the lock bar is in the engaged position. The folding knife also includes a lock pin connected to the handle adjacent the at least one lock member.

Independent Claim 20 recites a method for locking the folding knife in an open position. The method comprises moving the blade to the opened position, and moving the lock bar to the engaged position so that a portion of the lock member contacts a respective portion of the blade adjacent the lock member recess to thereby define a contact point between the lock member and the blade when the blade is in the opened position.

## **II. The Claims Are Patentable Over The Pardue '866 Patent**

The Examiner contends that U.S. Patent No. 5,822,866 to Pardue discloses the folding knife of the presently claimed invention. The Applicant respectfully submits, however, that

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the Examiner has mischaracterized the Pardue '866 patent. More specifically, the Pardue '866 patent discloses an automatic folding knife including a latch to release the blade from a closed position, and a safety lock that prevents the blade latch from releasing the blade when the safety lock is engaged. The safety lock includes a stop that is moveable between an engaged position, which prevents the blade latch mechanism from being opened, and a disengaged position, which allows the blade latch to be operated for release of the blade.

The Applicant submits that the Pardue '866 patent fails to disclose the present invention. More specifically, the Pardue '866 patent fails to disclose a lock bar, as recited, for example, in independent Claims 1, 12, and 20.

As noted in the attached \$1.132 declaration submitted herewith, the lock bar of the presently claimed invention includes one piece construction. More specifically, the lock bar of the presently claimed invention includes lock members. For feasibility purposes, the lock bar must be manufactured as one piece. Further, the one piece construction of the lock bar allows a user to engage a portion thereof to thereby move the lock members of the lock bar into a position to engage and disengage a lock member recess formed in the blade when moving the blade between opened and closed positions.

The lock bar recited in independent Claim 1, for example, connects to the handle and comprises a first lock member defined by a bottom wall and first and second sidewalls extending upwardly therefrom. The lock bar also includes a second lock member adjacent the first lock member that is defined by a bottom wall and a sidewall extending upwardly therefrom. The Pardue '866 patent, however, fails to disclose such a lock bar. Instead, the Pardue '866 patent discloses

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several disjoint pieces, which the Examiner has attempted to characterize as the lock bar of the presently claimed invention.

More particularly, the Examiner has attempted to label three separate and distinct elements disclosed in the Pardue '866 reference as the lock bar of the presently claimed invention. These elements include a lock lever (80 in FIG. 6), a shank (64 in FIG. 6), which is a separate and distinct element from the lock lever 80, and a wall of an opening (92 in FIG. 4), also a separate and distinct element from the lock lever. These disjoint elements cannot properly be labelled as the lock bar of the presently claimed invention.

The Pardue '866 patent fails to even disclose a first lock member defined by a bottom wall and first and second sidewalls extending upwardly therefrom. Instead, the Pardue '866 patent discloses a cylindrically shaped shank (labelled as the first lock member by the Examiner).

Further, the Pardue '866 patent fails to disclose a lock bar that is moveable between engaged and disengaged positions so that a portion of the first sidewall of the first lock member contacts a portion of the first sidewall of the first lock member recess to define a contact point between the lock bar and the blade when the blade is in the opened position. Instead, the lock lever of the Pardue '866 patent (labelled by the Examiner as the lock bar) fails to contact any portion of the blade when the blade is in the opened position (see illustration in FIG. 4 showing the blade in the opened position).

Similarly, and with reference to independent Claim 12, the Pardue '866 patent fails to disclose a lock bar that is connected to a medial portion of the handle. Instead, the lock bar disclosed in the Pardue '866 patent is connected to the handle adjacent the proximal portion thereof. Further, the

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Pardue '866 reference fails to disclose a lock bar comprising at least one lock member that contacts a respective portion of the blade adjacent a lock member receiving recess to define a contact point between the lock member and the blade. Again, the lock lever of the Pardue '866 patent, which the Examiner contends is the lock bar of the presently claimed invention, fails to contact any portion of the blade when the blade is in the opened position.

With reference to independent Claim 20, the Pardue '866 patent fails to disclose a lock bar having at least one lock member. Further, the Pardue '866 patent fails to disclose a lock bar that is moveable to an engaged position so that a portion of a lock member contacts a respective portion of the blade adjacent the lock member recess to define a contact point. Again, the lock lever disclosed in the Pardue '866 patent fails to engage the blade when the blade is in the opened position.

Accordingly, the Applicant respectfully submits that the Examiner has failed to set forth a prima facie case for rejecting the presently claimed invention under 35 U.S.C. §102 as being anticipated by the Pardue '866 patent.

The Applicant therefore asserts that independent Claims 1, 12, and 20 are patentable over the Pardue '866 patent. The dependent claims, which recite yet further distinguishing features, are also patentable, and require no further discussion herein.

#### CONCLUSION

In view of the arguments provided herein, it is submitted that all the claims are patentable. Accordingly, a Notice of Allowance is requested in due course. Should any minor informalities need to be addressed, the Examiner is

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encouraged to contact the undersigned attorney at the telephone number listed below.

Respectfully submitted,



MARK R. MALEK

Reg. No. 46,894

The Torpy Group, P.L.

202 N. Harbor City Blvd.

Suite 200

Melbourne, Florida 32935

(321) 255-2332 Telephone

(321) 255-2351 Facsimile

(321) 821-1815 Direct Fax

Attorney for Applicant

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CERTIFICATE OF MAILING

I HEREBY CERTIFY that the foregoing correspondence has been forwarded via U.S. Mail to Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 this 9th day of March, 2006.

  
Emily L. Russ